

---

---

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

---

---

RICKY A. CARUTHERS,

Petitioner,

*versus*

WARDEN F. LARA,

Respondent.

§  
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. 1:14-CV-325

**MEMORANDUM ORDER OVERRULING PETITIONER'S OBJECTIONS AND  
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Petitioner Ricky A. Caruthers, a prisoner confined at the Federal Correctional Complex in Beaumont, Texas, proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

The court ordered that this matter be referred to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends dismissing the petition.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Petitioner filed objections to the magistrate judge's Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes the objections are without merit. Petitioner contends that the Supreme Court's decision in *Begay v. United States*, 553 U.S. 137 (2008), establishes that he was actually innocent of the armed

career offender sentence enhancement. This claim is a challenge to petitioner's sentence, not his conviction. Therefore, dismissal is appropriate because petitioner's claim is not cognizable in a § 2241 petition under the savings clause of 28 U.S.C. § 2255(e). *Wyatt v. Warden, Federal Bureau of Prisons*, 538 F. App'x 390, 391 (5th Cir. 2013).

### **ORDER**

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

**Signed this date.**

**Aug 4, 2014**



---

MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE